

The public may attend the meeting in person or view it online at  
<http://pvkansas.com/livestreaming>.

**BOARD OF ZONING APPEALS  
CITY OF PRAIRIE VILLAGE  
TUESDAY, JUNE 4, 2024  
7700 MISSION ROAD  
COUNCIL CHAMBERS  
6:30 P.M.**

I. ROLL CALL

II. APPROVAL OF BZA MINUTES - May 7, 2024

III. PUBLIC HEARINGS

BZA2024-05

Variance of required side setback for construction of deck

2214 W. 72<sup>nd</sup> Street

Zoning: R-1B

Applicant: Margaret Walsh

IV. OTHER BUSINESS

V. ADJOURNMENT

Plans available at City Hall if applicable  
If you cannot be present, comments can be made by e-mail to  
[cityclerk@pvkansas.com](mailto:cityclerk@pvkansas.com)

**\*Any Commission members having a conflict of interest, shall acknowledge that conflict prior to the hearing of an application, shall not participate in the hearing or discussion, shall not vote on the issue and shall vacate their position at the table until the conclusion of the hearing.**

**BOARD OF ZONING APPEALS  
CITY OF PRAIRIE VILLAGE, KANSAS  
MINUTES  
TUESDAY, MAY 7, 2024**

**ROLL CALL**

The meeting of the Board of Zoning Appeals of the City of Prairie Village, Kansas was held on Tuesday, May 7, 2024, at 6:30 p.m. in the Council Chambers of the Municipal Building at 7700 Mission Road. Chair Jonathan Birkel called the meeting to order at 6:30 p.m. with the following members present: James Breneman, James Kersten, Melissa Brown, and Melissa Temple.

The following individuals were present in their advisory capacity to the Board of Zoning Appeals: Chris Brewster, Multistudio; Nickie Lee, Deputy City Administrator; Terry O'Toole, Council Liaison; Mitch Dringman, Building Official; Adam Geffert, City Clerk/Board Secretary.

**APPROVAL OF MINUTES**

**Mr. Breneman moved for the approval of the minutes of the March 5, 2024, Board of Zoning Appeals meeting as presented. Ms. Brown seconded the motion, which passed 5-0.**

**PUBLIC HEARINGS**

BZA2024-03            Variance of required side setback  
                          Tomahawk Animal Hospital  
                          Zoning: C-2  
                          Applicant: Brian Michener, Lo Design

Mr. Brewster stated that the applicant was requesting a variance for the side setback from 10' to approximately 1.5' on the west side yard lot line to allow for the partial replacement and expansion of an existing building. The existing principal building runs approximately 48' along the west property line, and has a single-story elevation at approximately 1.5' from the side lot line. There are also two greenhouse outbuildings at roughly the same distance from the property line for another 93' along the side lot line.

The proposal would replace the two outbuildings, expand the existing principal building to the rear, and continue the current 1.5' side setback. Doing so would result in a building approximately 64.75' along the west property line with a single-story elevation. Mr. Brewster said that the plan required approval of the Board of Zoning Appeals according to the variance criteria for the placement of the building addition since it is expanding the degree of nonconformance of the principal building. He noted that if the variance was

granted, the applicant would also need site plan approval from the Planning Commission for other aspects of the proposal.

The property is currently used for an animal care business and a portion of the building and premises was historically used as a nursery. Each of these are a permitted use in the C-2 zoning district, as is the proposed expansion of the existing animal care business, which will utilize the entire building and site.

Mr. Brewster stated that the property is zoned C-2 which requires the following for side setbacks:

- No minimum required
- Side setbacks abutting R-1 through C-O zoning districts should back the adjacent property requirement; [The side setback in R-3 that applies in this situation is 10'. Section 19.12.025 requires a 10' side setback for two story buildings and 15' for two and one-half story buildings.]

The elevation would maintain the current single-story profile and include a side gable in the rear portion of the building, as well as a roof extension for an enclosed patio. The remainder of the rear lot and street-side side lot would be used for a reconfiguration of the parking lot and an outdoor space. The outbuildings are proposed to be removed, and the principal building expanded for an additional 17.75'.

Mr. Brewster noted that Section 19.54.030 of the City's zoning regulations required the Board to find that all five of the following "golden factors" be met to grant a variance:

1. Uniqueness - That the variance requested arises from such condition which is unique to the property in question, and which is not ordinarily found in the same zone or district and is not created by an action or actions of the property owner or the applicant.
2. Adjacent Property - That the granting of the permit for the variance would not adversely affect the rights of adjacent property owners or residents.
3. Hardship - That the strict application of the provisions of these regulations from which a variance is requested will constitute an unnecessary hardship upon the property owner represented in the application.
4. Public Interest - That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.
5. Spirit and Intent of the Regulation - That the granting of the variance desired would not be opposed to the general spirit and intent of these regulations.

He added that if the Board did approve the variance, it should be subject to the following conditions:

1. That the variance be granted only to the extent shown with the submitted application and based on submitted plans and elevations.

2. The variance, if approved, requires other elements of the proposed expansion to be approved by the Planning Commission according to the site plan criteria. If the site plan is not approved, this variance shall not be valid and shall require review based on any subsequent site plan.
3. The variance, if approved, shall be recorded with the County Register of Deeds within one year of approval.

Applicant Brian Michener was present to discuss the application. Mr. Birkel asked how drainage would be handled at the site. Mr. Michener stated that the proposal included the construction of a dog park, which would reduce the impervious area from 89% to 69%. He added that water would drain to the storm sewer on Lamar Avenue.

Mr. Birkel opened the public hearing at 6:39 p.m. With no one present to speak about the project, Mr. Birkel closed the hearing at 6:40 p.m.

Board members reviewed the golden factors and determined that the proposal met all requirements.

**Ms. Brown made a motion to approve the variance with the conditions recommended by staff. Ms. Temple seconded the motion, which passed 5-0.**

## **OTHER BUSINESS**

None.

## **ADJOURNMENT**

Chair Jonathan Birkel adjourned the meeting of the Board of Zoning Appeals at 6:42 p.m.

Adam Geffert  
City Clerk/Board Secretary

# STAFF REPORT

**TO:** Prairie Village Board of Zoning Appeals  
**FROM:** Chris Brewster, Multistudio, Planning Consultant  
**DATE:** June 4, 2024 Board of Zoning Appeals Meeting

---

**Application:** BZA 2024-05

**Request:** Variance to the side yard setback from 6 feet to approximately 5 feet, to allow the replacement of an existing deck.

**Action:** *A variance request requires the Board of Zoning Appeals to evaluate facts and weigh evidence, and a majority of the Board must find that all 5 criteria for a variance have been met in order to approve the request.*

**Property Address:** 2214 W. 72<sup>nd</sup> St.

**Applicant:** Margaret Walsh

**Current Zoning & Use:** R1-B Single-Family Residential – Single-family Dwelling

**Surrounding Zoning & Use:** **North:** R-1B Single-Family Residential – Single-Family Dwellings  
**East:** R-1B Single-Family Residential - Single-Family Dwellings  
**South:** R-1B Single-Family Residential - Single-Family Dwellings  
**West:** R-1B Single-Family Residential – Single-Family Dwellings

**Legal Description:** GRANTHURST LT 131 & W 20' LT 132 PVC-3531

**Property Area:** 0.18 acres (7,837.88 s.f.)

**Related Case Files:** None

**Attachments:** Application, variance request form, lot and deck plans.

---

**General Location – Map**



**Aerial Map**



**Aerial Site**



**Birdseye View**



**Birdseye View**



**Street View**



*Looking north from West 72<sup>nd</sup> Stret – Subject in the middle; subject lot line on left.*

**SUMMARY:**

This application requests a variance for the side setback from 6 feet to approximately 5 feet on the west side lot line to allow the replacement of an existing deck. The deck is approximately 8 feet wide and 13 feet deep and sits within a reverse corner on the northwest side of the home. The 8 feet width places the deck approximately 5 feet from the west property line.

**DETAILS:**

The property is zoned R-1B and is used as a single-family dwelling. All property in the vicinity is similarly zoned and used. R-1B which requires the following for side setbacks:

- 6' [\[19.08.015\]](#)
- 3' for open and uncovered porches, decks or patios less than 30 inches high. [\[19.44.020.\(d\)\]](#)

The applicant is requesting a variance from these standards to allow the replacement and slight expansion to an existing deck. The deck is 36 inches above grade so it is subject to the R-1B 6-foot side setback requirement. The deck is approximately 8 feet wide and 13 feet deep and sits within a reverse corner on the northwest side of the home. The 8 feet width places the deck approximately 5 feet from the west property lot line. It extends to the rear of the house even with the side setback of the house for approximately 13 feet (a slight expansion to the current deck). The adjacent house is approximately 9 feet from the existing house, but the deck is more than 12 feet from any adjacent structure due to the floor plan of the adjacent house.

The applicant had a neighborhood meeting on May 22, 2024 as required by the Prairie Village Resident Participation Policy and has supplemented the application with background on that meeting.

**VARIANCE ANALYSIS (BOARD OF ZONING APPEALS):**

[Section 19.54.030](#) of the Zoning Ordinance requires the Board to find that **all five** of the following conditions are met in order to grant a variance. If the Board finds that any one of these conditions is not met, a variance should not be granted:

**A. Uniqueness**

**That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or the applicant.**

**In order for the property to meet the condition of uniqueness, it must have some peculiar physical surroundings, shape, or topographical condition that would result in a practical difficulty as distinguished from a mere inconvenience to utilize the property without granting the variance.**

The property a 60-foot wide by 130-foot deep lot (the minimum width in R-1B is 60 feet.) It is typical of most lots on this block, although there are wider lots and irregular

patterns of 80-, 100-, and 120-foot wide lot on blocks to the south and north. The house was built in 1951 – prior to adoption of the ordinance and is a legal non-conforming structure. The R-1B zoning district was amended in 2018 to change the side setback from 4 feet to 6 feet. The existing deck was constructed prior to those changes. The deck is situated in a reverse corner of the building on the northwest side and has a door from the house onto the deck.

#### **B. Adjacent Property**

**That the granting of the permit for the variance would not adversely affect the rights of adjacent property owners or residents.**

The existing house and deck are legal nonconforming structures, and are situated approximately 5 feet from the west property boundary. The existing house on the adjacent lot is approximately 4 feet from the property boundary (9-foot separation of buildings) although the building is off-set at the portion of the property where the deck is and is more than 12 feet from the deck. The elevation of both homes is a single-story gabled elevation (approximately 17 feet high) and the deck is open and unenclosed with a privacy screen on the west side boundary.

#### **C. Hardship**

**That the strict application of the provisions of these regulations from which a variance is requested will constitute an unnecessary hardship upon the property owner represented in the application.**

The existing house and deck are legal nonconforming structures, and a replacement that complies with the required setback would either involve shortening the deck to approximately 7 feet wide, lowering the deck two steps down from the doorway, or cantilevering the deck over foundational elements that comply with the setback.

#### **D. Public Interest**

**That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.**

The deck is a replacement for a current situation, with only a slight expansion towards the rear yard (not towards the adjacent property). The setback limit is generally intended for large structures (between 30 inches and 29 feet), and this structure is only 36 inches high and would remain open and unenclosed. Lower structures can encroach closer to the side property line than what is proposed in this case (up to 3-feet if below 30 inches, where this deck is 5 feet at 36 inches). All of this activity occurs on the rear portion of the property and will not have any impact on the streetscape, or other property in the vicinity of these two lots.

#### **E. Spirit and Intent of the Regulation**

**That the granting of the variance desired would not be opposed to the general spirit and intent of these regulations.**

Side setbacks are intended to manage the relationship of adjacent buildings. In this case the buildings will maintain a relationship similar to the current condition. The deck is proposed as a continuation of the side setback line of the principle structure, and will not encroach into the setback more than the principal structure or existing

deck. The deck is at or below the first-floor elevation of the existing home and will remain open and unenclosed.

**EFFECT OF DECISION:**

After reviewing the information submitted and considering the testimony during the public hearing, if the Board finds that **all five conditions** can be met as required by state statutes and [Section 19.54.030](#) of the Prairie Village Zoning Ordinance, then it may grant the variance. If the Board does approve the variance, it should be subject to the following conditions:

1. That the variance be granted only to the extent shown with the submitted application and based on submitted plans.
2. The variance, if approved, shall be recorded with the County Register of Deeds within 1 year of approval.

Cust # 23453  
App # 0030568

VARIANCE APPLICATION  
BOARD OF ZONING APPEALS

**CITY OF PRAIRIE VILLAGE, KANSAS**

For Office Use Only

Case No: BZA-2024-05  
Filing Fee: \$75.00  
Deposit: \_\_\_\_\_  
Date Advertised: \_\_\_\_\_  
Public Hearing Date: \_\_\_\_\_

APPLICANT: Margaret Walsh PHONE: 816-678-8970  
ADDRESS: 2214 West 72nd ST. ZIP: 66208  
OWNER: Margaret Walsh PHONE: 816-678-8970  
ADDRESS: 2214 W. 72nd ST. ZIP: 66208  
LOCATION OF PROPERTY: Prairie Village  
LEGAL DESCRIPTION: Grant Hurst LT 131 + W 20' LT 132  
PVC-3531

Variance Requested Proposed deck is 36" from grade. It  
will also sit 5 feet (not 6 feet). Deck is at least 12 feet  
(setback line) from nearest adjacent structure.

	<u>Land Use</u>	<u>Zoning</u>
North	<u>Single Family Res</u>	<u>R-1B</u>
South	<u>Single Family Res</u>	<u>R-1B</u>
East	<u>Single Family Res</u>	<u>R-1B</u>
West	<u>Single Family Res</u>	<u>R-1B</u>

Present use of Property: single Family Res

Proposed Use of Property: Single Family Res

Utility lines or easements that would restrict proposed development:  
none as the deck is going in same  
location and size as old deck.

Please complete both pages of the form and return to:

City Clerk  
City of Prairie Village  
7700 Mission Road  
Prairie Village, Kansas 66208

Please indicate below the extent to which the following standards are met, in the applicant's opinion. Provide an explanation on a separate sheet for each standard which is found to be met.

1. **UNIQUENESS**  Yes  No

The variance requested arises from conditions which are unique to the property in question, which are not ordinarily found in the same zoning district, and which are not caused by actions of the property owners or applicant. Such conditions include the peculiar physical surroundings, shape, or topographical condition of the specific property involved which would result in a practical difficulty or unnecessary hardship for the applicant, as distinguished from a mere inconvenience, if the requested variance was not granted.

2. **ADJACENT PROPERTY**  Yes  No

The granting of the variance will not be materially detrimental or adversely affect the rights of adjacent property owners or residents.

3. **HARDSHIP**  Yes  No

The strict application of the provision of the zoning regulations from which a variance is requested will constitute an unnecessary hardship upon the applicant. Although the desire to increase the profitability of the property may be an indication of hardship, it shall not be sufficient reason by itself to justify the variance.

4. **PUBLIC INTEREST**  Yes  No

The variance desired will not adversely affect the public health, safety, morals, order, convenience, or general welfare of the community. The proposed variance shall not impair an adequate supply of light or air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood.

5. **SPIRIT AND INTENT**  Yes  No

Granting the requested variance will not be opposed to the general spirit and intent of the zoning regulations.

6. **MINIMUM VARIANCE**  Yes  No

The variance requested is the minimum variance that will make possible the reasonable use of the land or structure.

SIGNATURE: Margus War DATE 4/17/2024

BY: \_\_\_\_\_  
TITLE: \_\_\_\_\_

## **1. Uniqueness**

The uniqueness to this project is that the homeowner (Walsh) who purchased the home in 2012 should be able to place a new well-built to code (once variance approved) deck by a licensed contractor in the same location as well size, which has not affected the neighbors next to her. (Walsh) purchased property, with the neighbor's fence line already in place, as well as the current old deck, which per Aims Imagery was built in 2008. The uniqueness is that we are asking for 1ft approval, per code it must be 6' from prop line and we are 5'.

## **6. Minimum Variance**

Yes, this request is the minimum variance as gaining it, will place to meet 2018 JC code book for distance from adjacent structure and 36" handrailing around deck.

City of Prairie Village, Kansas  
Board of Zoning Appeals  
Application for Appeal / Variance / Exception

To Whom it May Concern:

Justification for appeal / Variance / Exception is -  
Removal and replacement of existing deck  
in same location.

Criteria 1 Variance requested is unique to  
property due to existing property line.  
Structure (Home) is 5 feet from property line.

Criteria 2 Construction of new deck did not affect  
adjacent property owner at all.

Criteria 3 Unnecessary hardship would occur to  
property owner resulting in tearing down  
and replacing entire home.

Criteria 4 The variance will not affect public  
interest due to no changes were done  
to existing plan. (Structure)

Criteria 5 The variance will not conflict  
with zoning regulation due to no changes  
were made from the previous (existing)  
structure.

Respectfully submitted by

Margaret Wilson  
2214 West 7th St  
Prairie Village, KS 66208  
mmw43@hotmail.com  
8166788970

City of Prairie Village, Kansas  
BOARD OF ZONING APPEALS  
Application for Appeal/Variance/Exception

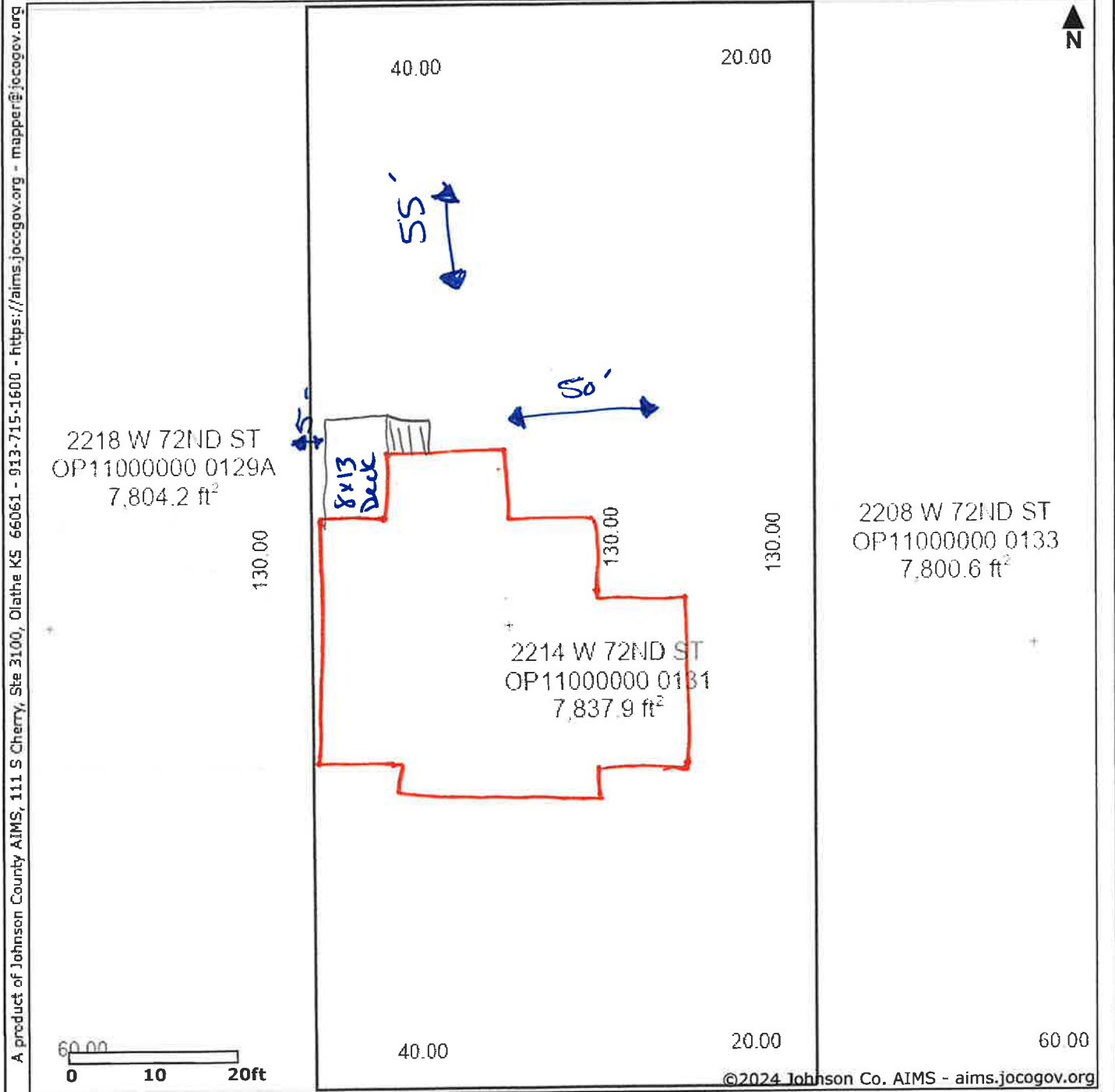
To Whom it May Concern:

Justification for appeal/variance/exception is ~  
Removal and replacement of existing deck  
in same location.

- Criteria 1 Variance requested is unique to property  
due to existing property line.  
Structure (none) is 5 feet from property line.
- Criteria 2 Construction of new deck did not affect  
adjacent property owner at all.
- Criteria 3 Unnecessary hardship would occur to  
property owner resulting in tearing down  
and replacing entire home.
- Criteria 4 The variance will ~~not~~ affect public  
interest due to no changes were done  
to existing plan (structure)
- Criteria 5 The variance will ~~not~~ conflict with  
zoning regulation due to no changes were  
made from previous (existing) structure.

Respectfully submitted by

Margaret Walden  
2014 West 7th St  
Prairie Village, KS 66208  
mmw43@hotmail.com  
916 6788970



### OP11000000 0131

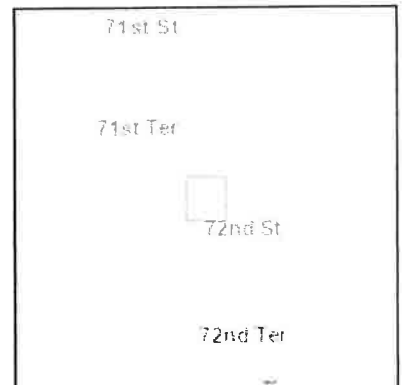
#### LEGEND

Address Point

Building/Structure

#### Property

- Untaxed
- Vertical
- Unplatted
- Mineral Rights
- Common Interest
- Platted
- Right-of-way
- Leased Land



Disclaimer: No person shall sell, give, reproduce, or receive for the purpose of selling or offering for sale, any portion of the data provided herein. Johnson County makes every effort to produce and publish the most current and accurate information possible. Johnson County assumes no liability whatsoever associated with the use or misuse of such data, and disclaims any representation or warranty as to the accuracy and currency of the data. 3/20/2024

April 10<sup>th</sup> 2024

□ = 50/50 Diamond Plate w/ 4x4 post & Simpson post base

Deck is 4" from grade to frame  
5/4 deck boards

3 1/2" guardrail  
Continuous handrail

2x10 #2 or better @ pine joists on 12" centers

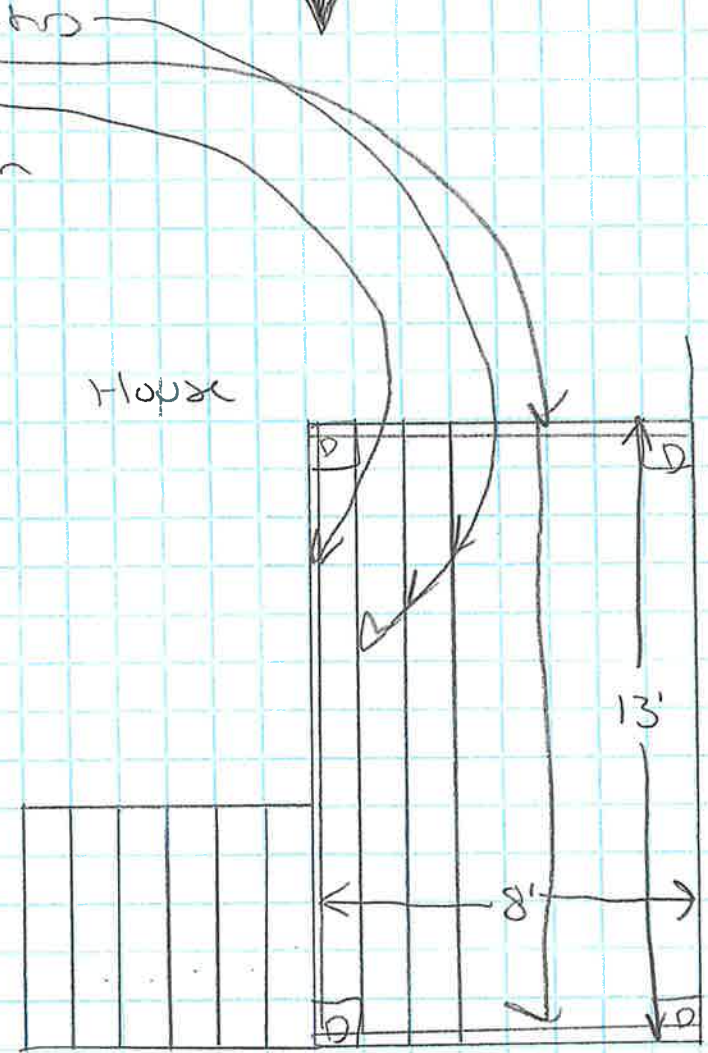
2x12 #2 or better @ pine double beam

2x10 #2 or better @ pine double rim

2x12 #2 or better @ pine stair stringers on 12" centers

Marcofence + Deck LLC  
Walsh Project  
2214 W 72nd St  
Prairie Village, KS 66208

N 1/4" = 1'





A product of Johnson County AIMS, 111 S Cherry, Ste 3100, Dlathe KS 66061 - 913-715-1600 - <https://aims.jocogov.org> - mapper@jocogov.org

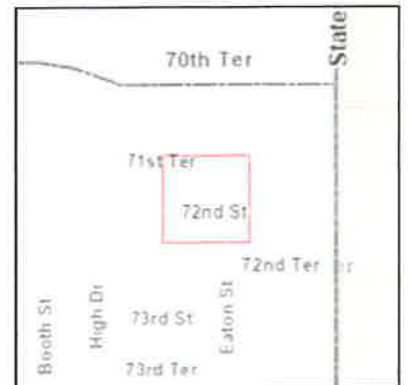
©2024 Johnson Co. AIMS - [aims.jocogov.org](https://aims.jocogov.org)

### Johnson Co AIMS Map

#### LEGEND

- Address Point
- Building/Structure
- Property
  - Untaxed
  - Common Interest
  - Vertical
  - Platted
  - Unplatted
  - Right-of-way
  - Mineral Rights
  - Leased Land

\* replacing the 8x13 deck with new 8x13 deck.



Disclaimer: No person shall sell, give, reproduce, or receive for the purpose of selling or offering for sale, any portion of the data provided herein. Johnson County makes every effort to produce and publish the most current and accurate information possible. Johnson County assumes no liability whatsoever associated with the use or misuse of such data, and disclaims any representation or warranty as to the accuracy and currency of the data. 4/16/2024

May 13th, 2024

Margaret Walsh

2214 W 72<sup>nd</sup> ST

PRAIRIE VILLAGE, KS 66208

Dear Neighbors,

I am writing to make you aware of my plans to replace my deck on my home at 2214 W 72<sup>nd</sup> St. I am requesting a variance from the City of Prairie Village Board of Zoning Appeals to approve the deck closer to the side property line than what is proscribed by the zoning regulations. The regulations stipulate those structures be no closer to the property line than 6 feet and that there be a minimum of 12 feet to neighboring structures. My request is to just replace my current deck, which is 8x13 with a new one in the same location and size 8x13. Which will keep it 5 feet from the property line and will be 11.5 feet from the neighboring structure. There is expansion nor getting closer to any property lines.

As required by the Board of Zoning Appeals, I am providing our neighbors with an opportunity to raise any questions or concerns regarding our request for this variance. Accordingly, I am holding a meeting on the driveway of my home at 2214 W 72<sup>nd</sup> ST for you to express those concerns and to answer your questions regarding my request. You are invited but not required to attend. I will submit a record of this meeting to the PVBZA identifying attendees and describing any concerns expressed.

The meeting will be held on Wednesday May 22<sup>nd</sup> at 5:00pm

The BZA meeting will be held at Prairie Village City Hall on Tuesday, June 4th at 6:30 p.m

Thank you,

Margaret Peggy Walsh

2214 W 72<sup>nd</sup> St.

Prairie Village, KS 66208

**From:** Peggy <mmw43@hotmail.com>  
**Sent:** Thursday, May 23, 2024 2:14 PM  
**To:** Adam Geffert <ageffert@pvkansas.com>  
**Subject:** Re: Board of Zoning Appeals Application

Hi Adam,

I am following up on the meeting that was Wednesday, May 22 at 5:00 pm. I was here until 6:00 pm and no one showed up. Please let me know what steps need to be taken concerning the June 4<sup>th</sup> meeting.

Thank you,  
Peggy Walsh